DUFFY, COLLECTOR OF INTERNAL REVENUE *v.* CENTRAL RAILROAD COMPANY OF NEW JERSEY.

CERTIORARI TO THE CIRCUIT COURT OF APPEALS FOR THE THIRD CIRCUIT.

No. 129. Argued March 13, 16, 1925.—Decided April 13, 1925.

1. Expenditures made by a corporate lessee, as required by the lease, to create additions to the leased property and not for upkeep, are not maintenance and operation expenses deductible from its gross income of the tax year in which made, within the meaning of § 12 (a) Subd. "First," of the Revenue Act of 1916, but are betterments under Subd. "Second" of that section,—capital investment, subject to annual allowances for exhaustion or depreciation. P. 62.
2. Neither are such payments for betterments and additions, though made by the lessee pursuant to the lease, deductible under § 12 (a), Subd. "First" as "rentals or other payments" required to be made as a condition to the continued use or possession of